

MONTANA LEGISLATIVE HISTORY

Chapter 446 to 2001

Bill H 382 S _____ Original bill & history ✓ C

H. Committee on Business & Labor

Hearing Date(s) 1-30 _____ C

_____ C

_____ C

_____ C

Date Out 2-1 _____ C

S. Committee on Local Government

Hearing Date(s) 3-22 _____ C

_____ C

_____ C

_____ C

DATE out 3-27

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1/30 Hearing
 1/31 Tabled in Committee
 2/23 Missed Deadline for General Bill Transmittal

HB 381 Introduced by Noennig

LC1483 Drafter: Martin

Notice of Classification and Appraisal to Single Owner and Create Lien

1/24	Introduced		
1/24	Referred to Taxation		
1/29	Hearing		
2/02	Committee Executive Action--Bill Passed as Amended	19	1
2/02	Committee Report--Bill Passed as Amended		
2/05	2nd Reading Passed	84	15
2/06	3rd Reading Passed	86	14
	Transmitted to Senate		
2/07	Referred to Taxation		
3/02	Hearing		
3/13	Committee Executive Action--Bill Concurred as Amended	9	0
3/13	Committee Report--Bill Concurred as Amended		
3/16	2nd Reading Concurred on Voice Vote	48	1
3/17	3rd Reading Concurred	42	1
	Returned to House with Amendments		
4/11	2nd Reading Senate Amendments Concurred	93	5
4/12	3rd Reading Passed as Amended by Senate	98	2
4/12	Sent to Enrolling		
4/13	Returned from Enrolling		
4/17	Signed by Speaker		
4/19	Signed by President		
4/20	Transmitted to Governor		
4/30	Signed by Governor		
4/30	Chapter Number Assigned		
	Chapter Number 444		
	Effective Date: 4/30/2001 - All Sections		

HB 382 Introduced by Whitaker, et al.

LC1327 Drafter: Kurtz

Limit Local Government Powers in Area of Landlord-tenant Law

1/24	Introduced		
1/24	Referred to Business and Labor		
1/30	Hearing		
2/01	Committee Executive Action--Bill Passed	11	8
2/02	Committee Report--Bill Passed		
2/06	2nd Reading Passed as Amended	55	44
2/08	3rd Reading Passed	63	36
	Transmitted to Senate		
2/09	Referred to Local Government		
3/22	Hearing		
3/29	Committee Executive Action--Bill Concurred as Amended	8	2
3/29	Committee Report--Bill Concurred as Amended		
3/30	2nd Reading Concurred on Voice Vote	50	0
3/31	3rd Reading Concurred	45	3
	Returned to House with Amendments		
4/12	2nd Reading Senate Amendments Concurred	70	28
4/13	3rd Reading Passed as Amended by Senate	68	32
4/13	Sent to Enrolling		
4/16	Returned from Enrolling		

4/19 Signed by Speaker
 4/21 Signed by President
 4/21 Transmitted to Governor
 4/30 Signed by Governor
 4/30 Chapter Number Assigned
 Chapter Number 446
 Effective Date: 10/01/2001 - All Sections

HB 383 Introduced by C. Younkin

LC1146 Drafter: Kurtz

Revise Clerk and Recorders Records Functions

1/24	Introduced		
1/24	Referred to State Administration		
2/01	Hearing		
2/02	Committee Executive Action--Bill Passed	17	1
2/02	Committee Report--Bill Passed		
2/06	2nd Reading Passed	99	1
2/07	3rd Reading Passed	98	0
	Transmitted to Senate		
2/08	Referred to Local Government		
3/08	Hearing		
3/09	Committee Executive Action--Bill Concurred	6	0
3/09	Committee Report--Bill Concurred		
3/14	2nd Reading Concurred on Voice Vote	50	0
3/15	3rd Reading Concurred	48	0
	Returned to House		
3/16	Sent to Enrolling		
3/16	Returned from Enrolling		
3/16	Signed by Speaker		
3/19	Signed by President		
3/19	Transmitted to Governor		
3/29	Signed by Governor		
3/29	Chapter Number Assigned		
	Chapter Number 156		
	Effective Date: 10/01/2001 - All Sections		

HB 384 Introduced by Facey

LC1004 Drafter: C. Erickson

Survey Use of School Buildings

1/24	Introduced
1/24	Referred to Education
1/24	Fiscal Note Requested
1/29	Fiscal Note Received
1/29	Fiscal Note Printed
2/02	Hearing
2/02	Tabled in Committee
2/23	Missed Deadline for General Bill Transmittal

HB 385 Introduced by Walters

LC1523 Drafter: B. Campbell

Define Resident for Insurance Purposes

1/24	Introduced
1/24	Referred to Business and Labor
1/30	Hearing
2/01	Tabled in Committee
2/23	Missed Deadline for General Bill Transmittal

1 *Sliter* *House BILL NO. 382*
2 INTRODUCED BY *James H. Whitaker*
3 *Ken Miller* *Paul Miller* *Christopher Forrester*
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING SELF-GOVERNING LOCAL GOVERNMENT UNITS
5 FROM IMPOSING CONDITIONS ON LANDLORDS THAT ARE BEYOND WHAT IS ALREADY PROVIDED FOR
6 IN STATE LAW; AND AMENDING SECTION 7-1-111, MCA." *Madison*

7 *Bitney*
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9

10 **Section 1.** Section 7-1-111, MCA, is amended to read:

11 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
12 exercising the following:

13 (1) any power that applies to or affects any private or civil relationship, except as an incident to
14 the exercise of an independent self-government power;

15 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
16 bargaining for public employees, unemployment compensation, or workers' compensation), except that
17 subject to those provisions, it may exercise any power of a public employer with regard to its employees;

18 (3) any power that applies to or affects the public school system, except that a local unit may
19 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit
20 and shall exercise any power that it is required by law to exercise regarding the public school system;

21 (4) any power that prohibits the grant or denial of a certificate of public convenience and
22 necessity;

23 (5) any power that establishes a rate or price otherwise determined by a state agency;

24 (6) any power that applies to or affects any determination of the department of environmental
25 quality with regard to any mining plan, permit, or contract;

26 (7) any power that applies to or affects any determination by the department of environmental
27 quality with regard to a certificate of environmental compatibility and public need;

28 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
29 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500,
30 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife); and

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities beyond what is provided in Title 70, chapters 24 and 25."

NEW SECTION. Section 2. Local government prohibited from enacting additional restrictions. Pursuant to 7-1-111(13), a local government unit with self-government powers may not enact or impose conditions or restrictions not contained in chapter 25 or this chapter.

NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to [section 1].

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN ROD BITNEY**, on January 30, 2001
at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: Rep. Joe McKenney, Chairman (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Dave Gallik (D)
Rep. Donald Steinbeisser (R)

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB382, HB380, HB386, HB385,
1/25/2001
Executive Action: HB348, HB349, HB382

Sponsor: REP. JIM WHITAKER, HD41, Cascade County

Proponents: Ronda Carpenter, Montana Housing Providers
Geoffrey Bayliss, Montana Landlords Assn.
Will Biggs, Western Montana Landlord Assn.
Arnold Schagel, Income Property Management
Christy Schagel, Income Property Management
Roger Halver, Montana Assn. Of Realtors

Opponents: Matthew Leow, Montana Public Interest Research Group
Clark Johnson, Bozeman City Manager
Alec Hansen, Montana League Cities and Towns
Janie McCall, City of Billings
Mike Kadas, Mayor of Missoula
Briana Kerstein, Montana People's Action

Opening Statement by Sponsor:

REP. JIM WHITAKER, HD 382, Cascade County, said HB382 is an act which would prohibit self-governing local government units from imposing conditions on landlords which are beyond what is already provided for in state law.

Proponents' Testimony:

Ms. Carpenter said her group represented 1000 members across the state. She noted her group had requested the bill because they see the potential for a problem. Charter governments possess any rights which the state government does not take away from them, and this bill takes away some of those rights, she said. She explained HB382 does not impact zoning, building codes, or fire and safety inspection. The bill does insure that landlord-tenant laws are the same throughout the state. HB382 disallows local governments from falsely manipulating rental markets with local ordinances, she emphasized.

Mr. Bayliss pointed out that license fees are usually passed on to the renter and therefore really should be regarded as rent increases.

Mr. Biggs agreed with Mr. Bayliss and noted that complaints about city ordinances often wind up in court which he referred to as a "black hole."

Mr. Schagel stated if this bill is not passed, the cost of licensing will be passed on to the tenants as a another tax. He said local government must be stopped from creating regulations which raise rent prices.

Mrs. Schagel said she supported the bill.

{Tape : 1; Side : A; Approx. Time Counter : 16}

Mr. Halver said the bill has the potential for increasing sprawl because landlords will move outside of city limits to avoid regulations. He noted, as renters are usually those with low income, this is a tax on those most likely to be able to afford it. He agreed these license costs are passed on to tenants.

Opponents' Testimony:

Mr. Lee said the committee should trust local people to make the best decisions for local people. He said he was concerned about the cost being passed on to the renters, but still local governments should not be prohibited from making local decisions.

Mr. Johnson presented written testimony. **EXHIBIT(buh24a01)** He said this bill is a threat to local government and its authority to govern itself. He said he did not agree that landlord-tenant laws needed to be equal across the state. He said local governments knew more about their needs than anyone else.

Mr. Hansen presented written testimony. **EXHIBIT(buh24a02)** He said the bill would erode the self-governing powers of the local governments and ultimately impact such things as snow removal, weed control and zoning.

{Tape : 1; Side : A; Approx. Time Counter : 28}

Ms. McCall said the language of the bill was broad and she agreed with Mr. Hanson that self-governing powers are critical to local government. She said this bill erodes their powers.

Mr. Kadas said this is not a place for the legislature to regulate and these matters need to be dealt with at home. He said the notion this will eliminate sprawl is not correct because the cause of sprawl is much more complicated. He said one way to control is to make cities more appealing by having clean and weed-free sidewalks, and an attractive and tidy environment. He suggested this will entice people to choose city living, not because it is cheaper, but because it is better.

{Tape : 2; Side : B; Approx. Time Counter : 0}

Ms. Kerstein said she has worked before to pass local licensing of landlords. She said the bill will help protect tenants when landlords decide to punish the tenants by raising rental rates.

She called tenants a high risk group which may be faced with the choice of living in the streets or in substandard housing.

Questions from Committee Members and Responses:

REP. ROME asked **Mr. Kadas** how the license fees worked in Missoula. **Mr. Kadas** said they cost \$30-\$35 for the license and \$7.50 per unit.

REP. BROWN asked if there was anything in this bill which would keep the landlord from having to do snow removal. **Ms. Carpenter** said the bill does not say anything about this, or weed and garbage removal.

REP. PRICE asked **Mr. Hansen** at what time the state has authority and when it does not. **Mr. Hansen** said the Constitution calls for a liberal construction of local government and this bill denies power to the local government.

Closing by Sponsor:

REP. WHITAKER said higher taxes and licenses raise rents. He said the City of Great Falls requires snow removal within 24 hours. He also said the bill does not impact fire and safety inspections. He presented correspondence from Missoula attorney Michael Solle regarding the bill. **EXHIBIT(buh24a03)** He concluded that higher fees equal higher rents, and that renting existed before local government.

HEARING ON HB380

Sponsor: **REP. BILL EGGERS, HD6, Crow Agency**

Proponents: Jan VanRiper, State Auditor's Office
Roger McGlenn, Independent Insurance Agents of
Montana
Matthew Leow, Montana Public Interest Research Group
Al Pontrelli, Montana Assn. of Insurance Agents and
Financial Advisors

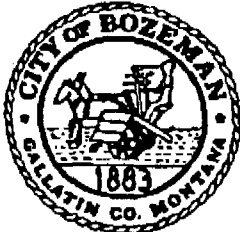
Opponents: Sue Weingartner, Alliance of American Insurers
John Metropolous, National Assn. of Independent
Insurance Agents
Greg Van Horssen, State Farm Insurance Company
Jacqueline Lenmark, American Insurance Assn.

HOUSE OF REPRESENTATIVES
ROLL CALL

HOUSE BUSINESS AND LABOR COMMITTEE

DATE JAN. 30, 2001

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Rep. Joe McKenney			✓
Rep. Gary Matthews	✓		
Rep. Roy Brown	✓		
Rep. Kathleen Galvin-Halcro	✓		
Rep. Carol Juneau	✓		
Rep. Rick Laible	✓		
Rep. John Musgrove	✓		
Rep. Nancy Rice-Fritz	✓		
Rep. Don Steinbeisser			✓
Rep. Jim Whitaker	✓		
Rep. Rod Bitney	✓		
Rep. Sylvia Bookout-Reinicke			✓
Rep. Dave Gallik			✓
Rep. Dennis Himmelberger	✓		
Rep. Jim Keane	✓		
Rep. Bob Lawson	✓		
Rep. Bill Price	✓		
Rep. Brett Tramelli	✓		
Rep. Allen Rome	✓		



CITY OF BOZEMAN
Bozeman, Montana

EXHIBIT 1
DATE 1-30-01
HB 382

January 29, 2001

Chairman Joe McKenney
House Business and Labor
State Capitol
Helena, Montana 59620

RE: HB 382

Dear Chairman McKenney & representatives of the House Business & Labor Committee:

The City of Bozeman opposes HB 382 which prohibits local government with self-government powers from licensing or regulating landlords. We oppose HB 382 for the following reasons:

- The bill has the effect of eliminating City authority to require residential landlords from complying with snow removal, sidewalk repair, weed removal, animal control laws, zoning, off-street parking, tenant disturbance, fence height, removing vegetative visibility obstructions, noise, nuisance laws, and sanitary sewer or garbage regulation.
- The Montana Constitution permitted its citizens to adopt self-government powers for its local government so as to lessen the dependence on the state and to increase their discretion to govern. We the People of Montana, James Lopach. This bill erodes this purpose. The bill will result in granting to general power cities more authority than is granted to cities with self-government powers. General power cities will be permitted to regulate activities applicable to landlords under its police powers while prohibiting the same opportunity for cities with self-government powers.
- The citizens of Bozeman recently adopted self-government powers with an effective date of July 1, 2001. The citizens of Bozeman wanted to lesson its dependence on the state legislature and be able to fashion laws to solve problems unique to the City of Bozeman. A move lauded by the Bozeman Chamber of Commerce and the Bozeman Daily Chronicle. This bill will hamstring the City before it even has a chance to exercise its new powers for the betterment of its citizens.
- Bozeman is experiencing tremendous growth. As a result, it also has an affordable housing problem. A solution to the affordable housing problem may entail regulating landlords in some fashion. This bill will diminish the ability of the leaders of Bozeman to find a solution.

Please preserve the right of the citizens to govern themselves and vote against HB 382.

Very truly yours,

Clark Johnson
Bozeman City Manager



P.O. Box 5021, 59403-5021

January 29, 2001

Honorable Members of the Business and Labor Committee
Montana House of Representatives
Helena, Montana

Dear Committee Members:

This is to express the strong opposition of the City of Great Falls to H. B. 382 which would prohibit self-governing local governments from exercising powers with respect to licensing or regulating landlords. While we certainly have a good working relationship with Representative Jim Whitaker, we respectfully disagree with the intent of this legislation. The following are our reasons.

- The language of the bill is narrowly focused on one special interest group in a section of law that deals with the broad principles of what self-governing powers do and do not include.
- The bill could prohibit or inhibit a number of essential functions of local government ranging from animal control to garbage collection to the way we do fire inspections.
- Self-governing powers were adopted by the voters of Great Falls. They are part of its Charter. The Legislature should not take away the right of Great Falls citizens to govern themselves.

When issues come up through the City government we hold public meetings in a variety of settings to work out differences. We try to reach consensus on issues but there are times when an individual or a group is not happy. Yet these local issues need to be left to local processes and solutions. They should not be dealt with through State prohibitions that limit solutions.

We are not aware of any specific problems that are addressed by this bill. We are concerned about the effect of such imprecise language and broad prohibitions could have on the City's ability to encourage safe, decent housing opportunities for our citizens.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Randy Gray".

Randy Gray
Mayor

A handwritten signature in cursive script, appearing to read "John Lawton".

John Lawton
City Manager



EXHIBIT 3
DATE 1-30-01
HB 382

**MAYOR'S OFFICE
CITY OF MISSOULA
FACSIMILE COVER SHEET**

Date: 7/20/00 Time: _____

To: Will Bisso

Receiving FAX Number: 322-8676

From: Mayor's Office
City of Missoula
435 Ryman
Missoula, MT 59802-4297

Phone: (406) 523-4601
FAX: (406) 523-4932

Note: _____

Total number of pages transmitted including cover sheet 11

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(406) 523-4601 as soon as possible.

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RECEIVED

JUL 06 2000

MAYOR'S OFFICE
CITY OF MISSOULATelephone: (406) 728-4727
Fax: (406) 728-7823COPY FOR YOUR
INFORMATION**SOL
WOLFE LAW FIRM PLLP**

101 East Broadway #300 Missoula, Montana 59802

Michael Sol
Gary W. Wolfe
Terry L. Wolfe

April 24, 2000

Will Biggs
PO Box 3501
Missoula, MT 59806327-8696 for
542-7474

re: Missoula City Ordinance No. 3100

Dear Will,

As you know, we examined several Supreme Court opinions on related issues and found several grounds upon which there could be a weakness in the above ordinance. Our main question in our letter to Jim Nugent was, however, looking at "what's the point" of this ordinance in light of existing regulations that do the same thing. The Mayor's letter of April 20 seems to confirm that this is his take on it as well, but he apparently did not read my earlier letter to the same effect.

I had written Jim Nugent asking if we could work with him on this ordinance to avoid litigation over the various areas that it might represent overreaching. You saw the response I received back.

I saw nothing in that letter that suggested a desire on the part of the City of Missoula to work with the landlord and tenant community on this issue.

Unfortunately, the Mayor's letter of April 20 seems to be a similar "drop dead" letter. Whether the legal arguments are "dubious" or not, is somewhat mystifying. The cases cited were the Supreme Court's decisions on similar matters. It is hardly a foregone conclusion that all so-called "license" requirements are permitted simply because a particular city council somewhere decides to impose an arbitrary "license" requirement. Likewise, the Mayor's feeling that our concerns represent an "assault on long-term municipal authority," is such an extreme reading of what we were trying to say that I guess the message we are supposed to receive is that the gentlemen simply don't want to sit down and discuss this, which was my original invitation to Mr. Nugent. I had not radicalized the argument by suggesting that the city ordinance, for example, represented an "assault on long-term private property rights,"

and so why the Mayor might try and radicalize the argument, and what is to gain from that, I don't know. Nobody is trying to "assault" municipal authority and where that idea came from, I can only speculate.

I had suggested writing to the City Attorney as a means of keeping the discussion low-key and civil, and perhaps working this matter out at an informal level. I was wrong. You can see by the responses we received that this is not their intention at all. I don't know why. The tone of their responses also seems to express a desire to personalize these disagreements. What the point is of that, I don't know. It's both unprofessional and petty.

In any case, as the Mayor states, this ordinance provides no new information for the city, yet levies a fee, imposes an annual reporting requirement, and creates new obligations on the part of both the city and the landlord/tenant community, neither of whom seems to have much to gain from it. An interesting part of the reporting requirement is that it requires the zoning officer to approve each application, each year, for the same property that was approved each preceding or prior year, in the absence of a zoning change. In essence, the ordinance requires the City to tell the landlords, on an annual basis, "your zoning has not changed in the past year." The landlord has to prepare an application and pay a fee for this information. For the vast bulk of the residential rental housing, that's really what this ordinance does. The City, at the same time, has to set up and administer a new record keeping system that tells property owners whether or not their zoning has changed, although an existing system exists to notify the same property owners of an proposed changes and notifies them of such changes when enacted. We seem to agree entirely with the Mayor on this point, although he seems more occupied with confirming that Jim Nugent is "right on target" by ignoring court cases that have struck down similar municipal ordinances.

As we know, the long-term costs of this ordinance, passed through to the tenants, is surprisingly large taken as a whole. I would think that would be of great concern to our political community. Instead, I see words like "poppycock," "dubious," "cooking up" and "legal concoctions," applied to efforts to oppose this ordinance.

My sense of this response is this: Mayor Kadas could have chosen to engage us constructively on this, in spite of the hoary oration of his city attorney. By the tone and manner of his response, he obviously and consciously chose not to. He seems to suggest that although he really agrees with us, he will withdraw his sympathy because he does not like the legal arguments employed even though the bulk of the letter to his city attorney directly support the idea that the license imposes an unnecessary fee to produce information the city already has. Given the tenor of his response, I would be interested in his manner of expression if he strongly *disagreed* with us. I think we have to take him at his word and look elsewhere for relief.

Our letter to Mr. Nugent attempted to distinguish those city ordinances that have a tangible licensing function from those ordinances that 1) infringe on a legitimate state function, 2) impose a tax disguised as a license fee, or 3) impose a license requirement that serves no valid municipal function. Nugent's overbearing letter notwithstanding, these *are* legitimate constraints on municipal power. It is because this ordinance falls, at best, into a gray area that

I had recommended a course of action involving discussion, not litigation. If it was entirely clear cut, then litigate and get it over with. I regret my advice was met with such a chilly response by Missoula's executive department. Perhaps this will provide a guide for future dealings there.

However, from Mayor Kadas' response, I gather the City of Missoula feels that *any* objection to city action represents an "assault on long-term municipal" authority. However, the line of cases I cited shows quite clearly to the contrary, and, whether or not we lose his "sympathy" or not, those cases all demonstrate that cities can and do attempt sometimes to overreach, and in each of the cases cited, the cities lost the legal battle on issues similar to, but not necessarily identical to, what we have here.

What we have seen is our effort to address the issues on specific legal grounds and to engage in some level of productive conversation has not been met in kind. I don't know why. Rather, the response is so dismissive and negative, I hardly see it as the kind anyone would expect from public officials. In any case, I know you were talking with members of the city council; please let me know how that is proceeding.

My recommendation regarding discussing the matter further through the executive department of the City of Missoula is that it is nonproductive. They don't want to talk about these issues of concern with us.

Sincerely,
SOL & WOLFE Law Firm, PLLP



Michael Sol
Attorney at Law

MS.sb

cc: Michael Kadas



MIKE KADAS

OFFICE OF THE MAYOR

435 RYMAN MISSOULA, MONTANA 59802-4297

Rental Licensing

April 20, 2000

Michael Sol
Sol & Wolfe
101 East Broadway #300
Missoula, MT 59802

Dear Mr. Sol:

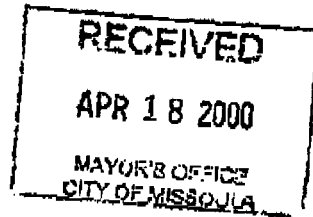
I am in receipt of your letter of April 17, concerning Mr. Nugent's response to your letter of March 22, representing concerns of your client, the Western Montana Landlords Association. While Mr. Nugent's choice of words may have been a bit strong I think he was right on target with his comments. It baffles me why the Landlords Association would rely on a series of dubious legal arguments in their opposition to the new rental reporting requirements when they have a perfectly clear, simple and practical argument to make. The new requirements impose an additional fee and bother of reporting, without creating any new information that the City doesn't already have. I agree with and am sympathetic to this argument, but when the Association, on your advice, starts cooking up these legal concoctions that assault long-term municipal authority, you quickly lose my sympathy.

Very Sincerely Yours,

Handwritten signature of Mike Kadas in cursive.

Mike Kadas
Mayor

Cc: Jim Nugent, City Attorney
Will Biggs, President, WMLA

**SOL
WOLFE**Telephone: (406) 728-4727
Fax: (406) 728-7823**LAW FIRM PLLP**

101 East Broadway #300 Missoula, Montana 59802

Michael Sol
Gary W. Wolfe
Terry L. Wolfe

April 17, 2000

Mike Kadas, Mayor
Missoula City Hall
Missoula, MT 59802

re: Missoula City Ordinance No. 3100

Dear Mayor Kadas,

I have had very limited dealings with Jim Nugent over the years. Except in the course of a very few letters regarding city matters, I do not know him. But, do I have to be insulted in every single communication I have with him? Is this his usual *modus operandi*? Is this how the City represents itself to its constituents?

Sincerely,
SOL & WOLFE Law Firm, PLLP

A handwritten signature in black ink, appearing to be "Michael Sol", written over the printed name.

Michael Sol
Attorney at LawMS.sb
Enclosure

**SOL
&
WOLFE**Telephone: (406) 728-4727
Fax: (406) 728-7823**LAW FIRM PLLP**

101 East Broadway #300 Missoula, Montana 59802

Michael Sol
Gary W. Wolfe
Terry L. Wolfe

April 17, 2000

Jim Nugent
MISSOULA CITY ATTORNEY
Missoula City Hall
Missoula, MT 59802

re: Missoula City Ordinance No. 3100

Dear Jim,

I am in receipt of your letter of April 14 regarding Missoula City ordinance 3100. I had written you with the idea of resolving the legitimate concerns that both the landlord and tenant community have in attempting to avoid a continually ratcheting up of fees, taxes, costs, and regulations in the City of Missoula regarding rental housing.

Your letter shows no concerns for the tenant community of Missoula and that's fine.

However, your dismissal of specific concerns regarding this as "absurd poppycock" is, I think, both unprofessional and, I hope, not representative of the attitude of the City of Missoula as a whole. It is possible to both effectively communicate and still retain professional courtesy and dignity at the same time. I look forward to communicating with you in the future in that fashion.

Sincerely,
SOL & WOLFE Law Firm, PLLPMichael Sol
Attorney at Law

MS.sb

cc: Mike Kadas, Mayor
Will Biggs, President, WMLA

Article XI
 "The powers of incorporated cities shall be liberally construed."

See 92-21-4101 MCA
 "Municipal Licensing Authority"
 7-21-4101 (1) MCA City Council has power to
 license by ordinance all industries, pursuits,
 professions and occupations.

**SOL
 WOLFE**

Telephone: (406) 728-4727
 Fax: (406) 728-7823

LAW FIRM PLLP

101 East Broadway #300 Missoula, Montana 59802

Michael Sol
 Gary W. Wolfe
 Terry L. Wolfe

March 22, 2000

Jim Nugent
 MISSOULA CITY ATTORNEY
 Missoula City Hall
 Missoula, MT 59802

re: Missoula City Ordinance No. 3100

Dear Jim,

I am general counsel of the Western Montana Landlords Association, and its membership has asked me to look at the business license ordinance passed last year affecting rental properties in Missoula.

We had quite a meeting about it last night, listening to many upset members, with a general consensus that 1) the ordinance, in its implementation, doesn't seem to have much to do with its avowed purpose, 2) the interpretation of it by the Finance Department of the City of Missoula seems to be considerably different than the language of the ordinance, 3) the Finance Department's statement of purpose, enforcing zoning, is entirely duplicative of existing laws, 4) the licensing requirement, as it applies to licensed property managers, appears to duplicate or overlap state licensing requirements for property managers, 5) the formula for determining the cost of the license appears to actually be a tax on the sale of rental services. Such a tax on attorney services was prohibited in *Breuggeman v. City of Billings* (1986) 221 Mont. 375, 719 P.2d 768.

The Montana Supreme Court has held that only the Montana Supreme Court has authority over attorneys. Also, Billings had enacted an ordinance based on gross revenue. The Montana Supreme Court held that an ordinance I note that the Finance Department's interpretation of the purpose of the ordinance is "to help make sure that all rental units meet zoning requirements." [Letter, January 21, 2000 to Dave Laursen]. We already have zoning regulations designed to ensure compliance with zoning requirements. There does not seem to be a reason that suggests that the current scheme has not worked. I also note that there seems to be a suggestion in the ordinance that the City is taking upon itself a duty of ensuring compliance with "existing" codes or ordinances. What does that mean? Yet, the license itself states that there is no such duty. Is there or isn't there? What is the

that was
 imposing a tax on gross revenue from attorney-client relationship was unconstitutional!"

①

P.2d 971. Briefly, a license is a fee exacted for the primary purpose of regulating or restraining an occupation or privilege deemed dangerous to the public or to be specially in need of public control, and if compliance with certain conditions is required in addition to payment of the prescribed sum, such a fee is a "license" fee. However, if it is exacted for the purpose of revenue enhancement, and payment of the fee gives the right to carry on the business without further condition, it is a "tax." Here, the ordinance ostensibly states it is for the purpose of regulating certain zoning, health and safety concerns, and to create a "database". Yet, the avowed regulatory purpose duplicates, entirely, the enforcement provisions already in place under the zoning laws and as established by the state legislature under the Residential Landlord and Tenant Act. It is licensing to control what is already controlled by current ordinance and state law. It adds nothing to the currently regulatory scheme except the license fee, and that it is aimed squarely at landlords as a special group. It looks like a tax disguised as a license. The tax angle invites a whole new level of scrutiny, but, for the sake of simplicity, either way, why are landlords and property managers singled out for what is obviously a special tax or license, as part of enforcing the existing general regulatory zoning and code schemes?

A portion of the persons affected by this ordinance are the property managers. In Missoula, it is my perception that a substantial amount of our rental housing is under their control. I note that MCA § 37-51-603 places property managers under the licensing umbrella of the State of Montana for the express purpose of safeguarding "the welfare and safety of the public" regarding rental housing, and of course the requirements for obtaining the licensing is far more detailed than what the City of Missoula is requiring, for ostensibly identical purposes, while at the same time the City establishes a different scheme of remedies than the State imposes at MCA § 37-51-608. As a hypothetical that I think you will appreciate the careful meaning of, could the City of Missoula refuse the authority of a property manager to conduct its business in the city limits of Missoula, where the State has specifically authorized that property manager to conduct its business by license within the boundaries of the State of Montana?

There are so many conflicts of laws questions, enforcement questions, and fairness questions involved in this ordinance, litigation involving it is, frankly, an almost exhausting thought. Accordingly, the Western Montana Landlord's Association is seeking an alternative remedy at this point, short of a litigation route. Please let me know the City's position on this at your earliest convenience.

I also note the strictly economic implications of this. A useful rule of thumb on licensing fees is that the cost of implementation is substantially more than the cost of the fee itself, in terms of additional time-cost of compliance. This includes the usual economic criteria of the time-cost of completing and filing applications, recording the information for accounting purposes, and, additional time-cost of obtaining zoning compliance approval, each year, over and over again for each separate rental property, year after year. Any litigation costs arising out of this additional regulation of course may or may not impact this substantially, depending on implementation. The costs must be passed through to the tenants of course. If we assume that the incremental cost to landlords of implementing and complying with this is approximately \$120.00 per year per unit, this suggests a cost to rentals of \$10 per month, average. If Missoula has, for instance, 18,000-20,000 residential rentals, this means a cost transferred to the tenant community of approximately

(3)



OFFICE OF THE CITY ATTORNEY

435 RYMAN • MISSOULA, MT 59802-4287 • (406) 523-4614 • FAX: (406) 523-4895

2000-0031

April 14, 2000

Michael Sol, Esq.
Sol & Wolfe
101 East Broadway #300
Missoula, MT 59802

Re: Residential rental licensing - Ordinance No. 3100

Dear Mr. Sol:

The purpose of this letter is to respond to the recent letter you wrote in your capacity as general counsel of the Western Montana Landlords Association. In your letter you express concern about City of Missoula residential rental licensing ordinance no. 3100 for duplexes, single-family residential dwellings and rental of sleeping rooms.

Please be informed that pursuant to Mont. Code Ann. § 7-21-4101, pertaining to municipal licensing authority, a city council is expressly statutorily empowered to license by ordinance "all industries, pursuits, professions and occupations." This applies unless there is another statutory provision or Montana Supreme Court ruling exempting a specific profession from municipal government licensing. For example, a Montana Supreme Court case involving Helena municipal government's efforts to require a municipal business license for attorneys was invalidated by the Montana Supreme Court. The Montana Supreme Court has sole authority over attorneys and their license to practice law.

The Breuggemann v. City of Billings, 719 P.2d 768 (1986) Montana Supreme Court decision is not relevant to the validity of City of Missoula ordinance 3100 because the City of Billings municipal ordinance in Breuggemann involved an ordinance where the license fee to be paid to the City of Billings was based on the "gross revenue" of the business. Some attorneys protested and sued the City of Billings. The Montana Supreme Court in Breuggemann held that a municipal ordinance imposing a license based on "gross revenue" was invalid and unconstitutional because municipal governments do not have statutory authority to impose a license fee or tax that is based on "gross revenue" and Mont. Code Ann. § 7-1-112 statutorily requires that "the power to authorize a tax" to local government must be statutorily

Michael Sol, Esq.
Sol & Wolfe
April 14, 2000
Page 3

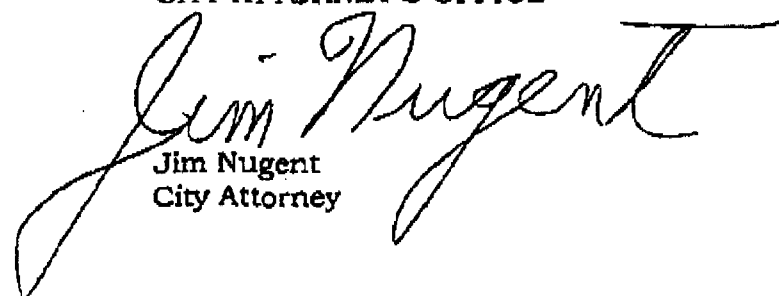
abandoned as a duplex use and no longer used as a duplex use by the current owner(s) of the property. Thus, there definitely is value to a licensing ordinance assisting in identifying duplexes that are illegally established.

Further, an additional public safety concern associated with the illegal conversion of a single family residence to a duplex is that often the illegal conversion establishes a second dwelling unit in the basement and the basement sleeping rooms pose an illegal life, safety, health and general welfare concern because there are no ingress and egress windows and/or doors to the basement sleeping rooms in direct violation of Uniform Building and Fire Codes.

Finally with respect to your comments about the licensing of property managers, this city ordinance is not licensing persons, it is licensing rental dwelling units. There is a significant substantive difference between the licensing of a person and the licensing of a rental dwelling unit. Montana state law expressly exempts real estate brokers and salespersons from municipal licensing; but this city ordinance is not attempting to license persons who are real estate brokers or real estate salespersons. The ordinance is solely aimed at licensing rental dwelling units and it is absurd poppycock to suggest that simply because a property manager manages a rental that the residential rental dwelling unit is somehow exempt from city municipal licensing.

Sincerely,

CITY ATTORNEY'S OFFICE



Jim Nugent
City Attorney

JN:kmr

pc: Mike Kadas, Mayor
City Council
Janet Stevens, Chief Administrative Officer
Brentt Ramharter, Finance Director
Kim Novak-Mansch, Accounting Supervisor
Bob Deeds, Fire Chief

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business and Labor Committee

DATE Jan. 30, 2001

BILL NO. HB 382

SPONSOR(S) Rep Whitaker

landlord-tenant law

TYPE

PROPONENT (P)

OPPONENT (O)

INFORMATIONAL (I)

PLEASE PRINT

PLEASE

CIRCLE

NAME

ADDRESS

REPRESENTING

☒ POI	Arnold Schlagel	Great Falls	IPM
☒ POI	Christie Schlagel	Great Falls	IPM
☒ POI	Geoffrey Baylis	Missoula	Western Mt. Landlord Assn.
☒ POI	Laurel Bygg	Missoula	W. Mt. Landlord Assn.
☒ POI	ROGER HALVER	HELENA	MT ASSO OF REALTORS
☒ POI	Briana Kerstein	Helena	Mt. People's Action
☒ POI	Bonda Carpenter	"	Mt Housing Providers
☒ POI	CLARK V JOHNSON	BOZEMAN	CITY OF BOZEMAN
☒ POI	Jani McCall	Bozeman	City of Billings
☒ POI	ALEC HANSEN	HELENA	MLCT
☒ POI	Mike Keeler	Missoula	City of Missoula
☒ POI	Kathleen Dougherty	Helena	MT Nurses Assn
☒ POI	Bryan Plicker	8926 3 Ave N.	Great Falls
☒ POI	Matthew Leon	327 N. Hoback Helena, MT 59601	MontPIRG

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\visitor register.frm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 1, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Dave Gallik (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB417, HB422, HB426, HB437,
1/29/2001
Executive Action: HB382, HB385, HB394, HB417

EXECUTIVE ACTION ON HB382

Motion: REP. WHITAKER moved that HB382 DO PASS.

Discussion:

REP. LAIBLE said he thought it was unfair to place these extra costs on those who could least afford it.

REP. FRITZ said the fee was only \$7.50 per year, not per month.

REP. JUNEAU said she opposed the bill because it was too specific and was for a special interest group.

REP. BITNEY said he supported the bill because it prevented more restrictions and regulations being imposed on businessmen.

REP GALLIK said the matter should be left up to the local governments and not controlled by the state government. He said he was a landlord and did not want to be licensed but local government should be allowed to make the determination if licensing was necessary.

REP. LAIBLE said the bill still allows local control, however, the bill creates an income-producing tax which should be borne by the entire community rather than the rental community.

REP. FRITZ explained the background of the bill occurred in Missoula when neighborhood homes had been turned into housing for students. There was a concern the neighborhood had been degraded. The city imposed a rule that no more than two members of a household must be from a different family. There were also parking problems and trashed houses in this area, she said. She said maybe there is not such a problem in Helena, but there is one in Missoula. She clarified she was speaking against the bill.

Vote: Motion HB382 carried 11-8 with Fritz, Gallik, Galvin-Halcro, Juneau, Keane, Matthews, Musgrove, and Tramelli voting no.

{Tape : 3; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB385

Motion: REP. PRICE moved that HB385 DO PASS.

Discussion:

REP. PRICE stated there was no reason for this bill.

HOUSE OF REPRESENTATIVES
ROLL CALL

HOUSE BUSINESS AND LABOR COMMITTEE

DATE Feb. 1, 2001

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Rep. Joe McKenney	✓		
Rep. Gary Matthews	✓		
Rep. Roy Brown	✓		
Rep. Kathleen Galvin-Halcro	✓		
Rep. Carol Juneau	✓		
Rep. Rick Laible	✓		
Rep. John Musgrove	✓		
Rep. Nancy Rice-Fritz	✓		
Rep. Don Steinbeisser	✓		
Rep. Jim Whitaker	✓		
Rep. Rod Bitney	✓		
Rep. Sylvia Bookout-Reinicke	✓		
Rep. Dave Gallik			✓
Rep. Dennis Himmelberger	✓		
Rep. Jim Keane	✓		
Rep. Bob Lawson	✓		
Rep. Bill Price	✓		
Rep. Brett Tramelli	✓		
Rep. Allen Rome	✓		

House of Representatives

Roll Call Vote

BUSINESS & LABOR COMMITTEE
Whitaker landlord-tenant

DATE Feb. 1, 2001 Bill NO. HB 382 NUMBER 11-8 PASS

MOTION: REP WHITAKER DO PASS

Name	AYE	NO
Rod Bitney, V.C., Majority (R)	✓	
Gary Matthews, V.C., Minority (D)		✓
Roy Brown (R)	✓	
Dave Gallik (D)		✓
Kathleen Galvin-Halcro (D)		✓
Dennis Himmelberger (R)	✓	
Carol Juneau (D)		✓
Jim Keane (D)		✓
Rick Laible (R)	✓	
Bob Lawson (R)	✓	
Nancy Rice-Fritz (D)		✓
John Musgrove (D)		✓
Bill Price (R)	✓	
Sylvia Bookout-Reinicke (R)	✓	
Allen Rome (R)	✓	
Don Steinbeisser (R)	✓	
Brett Tramelli (D)		✓
Jim Whitaker (R)	✓	
Joe McKenney (R) Chairman	✓	
Count	11	8



HOUSE STANDING COMMITTEE REPORT

February 1, 2001

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** report that **House Bill 382** (first reading copy - white) do pass.

Signed: _____

Representative Joe McKenney, Chair

- END -

Committee Vote:
Yes 11, No 8.

261214SC.hdc

*3:50
2-1*

HOUSE BILL NO. 382

INTRODUCED BY J. WHITAKER, BERRY, BITNEY, CHRISTIAENS, FORRESTER, MAHLUM, MCNUTT,
MILLER, SLITER

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING SELF-GOVERNING LOCAL GOVERNMENT UNITS
FROM ~~IMPOSING CONDITIONS ON LANDLORDS THAT ARE BEYOND WHAT IS ALREADY PROVIDED FOR~~
~~IN STATE LAW~~ EXERCISING CERTAIN POWERS RELATED TO LANDLORDS AND TENANTS; AND
AMENDING SECTION 7-1-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from
exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to
the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
bargaining for public employees, unemployment compensation, or workers' compensation), except that
subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may
impose an assessment reasonably related to the cost of any service or special benefit provided by the unit
and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of public convenience and
necessity;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental
quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental
quality with regard to a certificate of environmental compatibility and public need;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an

1 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500,
2 6 months' imprisonment, or both, except as specifically authorized by statute;

3 (9) any power that applies to or affects the right to keep or bear arms, except that a local
4 government has the power to regulate the carrying of concealed weapons;

5 (10) any power that applies to or affects a public employee's pension or retirement rights as
6 established by state law, except that a local government may establish additional pension or retirement
7 systems;

8 (11) any power that applies to or affects the standards of professional or occupational competence
9 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a
10 profession or occupation;

11 (12) any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish
12 and wildlife); and

13 ~~(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is~~
14 ~~intended to license landlords or to regulate their activities beyond what is~~ CONTROLS OR REGULATES RENT FOR
15 A DWELLING UNIT OR ALTERS THE RIGHTS, REMEDIES, OR DUTIES BETWEEN A LANDLORD AND A TENANT AS provided in
16 Title 70, chapters 24 and 25."

17
18 ~~NEW SECTION. Section 2. Local government prohibited from enacting additional restrictions.~~
19 Pursuant to 7-1-111(13), a local government unit with self-government powers may not enact or impose
20 conditions or restrictions not contained in chapter 25 or this chapter.

21
22 ~~NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an~~
23 ~~integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to~~
24 ~~[section 1].~~

25 - END -

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT**

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 22, 2001 at
3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. Ken Miller (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 190, 3/2/2001
HB 334, 3/2/2001
HB 382, 3/2/2001
HB 589, 3/2/2001

Executive Action: HJR 31 BCAA
HB 190 BC
HB 334 BCAA

{Tape : 1; Side : A; Approx. Time Counter : 0}

Closing by Sponsor:

REP. WITT closed. He responded that in his area they have meters as well as orifices in the line that control the amount of flow. One does have the option of purchasing water at the level they want. In some cases, there may be pasture outlets which would be a different fee. He was not sure if all the projects were set up that way, but his was. The little systems can no longer go through that process to meet all the standards, so this bill incorporates everything so that a facility can be set up to help the smaller systems in Montana. In Liberty County alone, about 95% of the people are impacted by what this bill addresses. Each project would add up to approximately \$200 million. There is a great deal of money involved. This would be a big time economic development project.

HEARING ON HB 382

Sponsor: REP. JIM WHITAKER, HD 41, GREAT FALLS

Proponents: Rhonda Carpenter, MT Housing Providers
Rick Linafelter, President, MT Landlords Assoc.
Diane Beck, Missoula County Assoc. of Realtors
Ken Manning, Landlord, Kalispell
Gene Thompson, MT Landlords Assoc., Kalispell
Vern Fischer, Great Falls
Jim McIsaac, Dillon
Harriet Chambers, MT Landlords Assoc., Dillon

Opponents: Alec Hansen, MT League of Cities/Towns
Marcia Youngman, Mayor, City of Bozeman
Terry Eastman, Bozeman
Jim Nugent, City of Missoula
Thomas Harnden, Bozeman
Joel Walsh, Bozeman
Buck Bucholz, Bozeman
Joe Mazurek, City of Great Falls
David Ponder, Montana Public Interest Research Group
(MontPIRG)

Opening Statement by Sponsor:

REP. JIM WHITAKER, HD 41, GREAT FALLS. This bill addresses the need for statewide consistency in the laws regulating landlords and tenants. This bill does not take away a local government's

ability to zone, enforce building codes or collect general business licenses or safety inspection fees. It will, however, offer a statewide solution to some existing conflicts of local government control over small businesses that provide rental housing. This bill was adversely amended on the House floor and he was open to having that amendment removed.

Proponents' Testimony:

Rhonda Carpenter, MT Housing Providers. MT Housing Providers requested this bill because housing providers have had some concerns. There were local governments throughout Montana who have enacted or were considering enacting a license on rental property. Rental property is not a business that one can decide at a moment's notice to quit because of new fees or the rules are changed. Nor is it a business that can be picked up and moved to another location or state. Licensing appeared to be no more than another revenue source for local governments. When landlords complained to their local government about licensing, they were told that if they were unhappy, some regulations could be written for more control.

An attorney drafted some language for this bill that was clear in that local governments could not license rental property owners or write any landlord-tenant laws that would regulate or interfere with the landlord-tenant agreement. She did not want the bill to affect general city business licenses. There are a number of cities in Montana who have a general business license and that included rental property owners. This bill would not affect that. There are some towns in Montana that have a safety inspection license. Once a year the fire department comes and inspects properties that have open or common areas open to the public. That was fine. It was not intended to affect in any way zoning laws, building codes, garbage enforcement, animal laws or any type of criminal activity.

Most people know that city limits are not clearly defined. It would not be fair if a landlord on one side of the street had different landlord-tenant law than a landlord on the other side of the street. There are a number of laws that the legislature makes and they are statewide. No matter where you are, the laws are the same. It makes it easier for the MT Landlords Assoc. to keep their members aware of changes in the law and to keep them educated and up to date. It is also easier for tenant organizations to apprise their members of the law.

Her group did not think it right to have to purchase a license before buying rental property. The Constitution gives all powers to charter local governments that are not expressly forbidden. This bill does not really eat away at those powers. The

Constitution also gives this legislative body the right to take away the powers that need to be taken away or limit them in order to make it right for the citizens of Montana.

There are already 68 different occupations such as salesmen, nurses, morticians, etc. that local governments are expressly forbidden to regulate. This would make number 69.

In the House, she had agreed to some amendments that was suppose to have dissolved any opposition to the bill. The section on licensing was removed. Local governments could have licensing power but they could not control rents nor regulate or write rules. This supposition did not turn out to be correct. Local governments were still in opposition. Therefore, the membership decided that the licensing issue was important to them and would like to have the House amendment removed. She did want the bill to be clear that local governments still had the power to zone, have building codes, regulate on criminal law, etc.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Rick Linafelter, President, MT Landlords Assoc. His group was in full support of the previous testimony.

Diane Beck, President, Missoula County Assoc. of Realtors. She asked the committee to support the bill in its original form. Missoula currently has a rental licensing requirement and it is part of their business license. About a year ago there were some amendments to that and part of those amendments include licensing single family homes, duplexes and rooms that are rented singly in homes. These amendments affect all property owners. The extra revenue is deemed to be a "cash cow" by many in Missoula. This is unfair to tax homeowners in Missoula in this manner. The Montana Landlord-Tenant Act governs landlords and additional regulations by local governments are not needed.

Ken Manning, Landlord, Kalispell. He asked for HB 382 to be passed in its original form. A friend in Whitefish who owns a mobile home court is already paying for a license.

Jay Thompson, MT Landlords Assoc., Kalispell. He asked for the committee's support of the bill.

Vern Fischer, Owner, Mobile Home Park, Great Falls. He also asked for the committee's support of the bill.

Jim McIsaac, Dillon. He asked for the passage of HB 382 in its original form.

Harriet Chambers, Property Manager, Dillon. She was in support of the bill.

Opponents' Testimony:

Alec Hansen, MT League of Cities/Towns. He was opposed to taking off the House amendments and returning the bill to its original form. The cities and towns see serious problems with the bill. He felt it was broad, confusing and vague. He was in favor of regulation by local governments. In Missoula, they do have a license which costs \$7.50 per rental unit or \$30 per year which ever is the lessor amount. It is a big business license. This bill goes into the powers denied under charter governments. About 15-20 cities in Montana have this form of government. Charter governments are voted by the people. He handed in a copy of a letter from Mayor Mike Kadas from Missoula who is opposed to the bill **EXHIBIT (1os65a03)**.

Marcia Youngman, Mayor, Bozeman. She opposed the bill either in the original form or the amended form. Section 2, regarding the ability of local government to work with landlords, is too narrow and limits local government. She felt that they should have control over landlords and their property. They have a tight housing market. Low income people have the hardest time finding a place to live. Two buildings in Bozeman had to be closed down due to unsafe conditions. Last year another building was proposed for demolition. It was the last non-subsidized building in Bozeman. There were 28 apartments. They were given only 30 days notice to vacate. She felt that the local government should have the authority to force landlords to give more notice and help pay extra expenses, etc. They forced the above landlord to give the tenants three months notice and financial assistance as well. This was important to her that if local government felt the need, they could alter landlord-tenant agreements. This bill would not allow that.

She did not want rent control and that was her compromise. She said they did not ever intend to go that direction. Local government needs to work with home builders, non-profits, churches, etc. to build more houses for low income people. But that alone is not enough; they need to have regulatory authority to protect the people. She asked the committee to kill the bill. Business licensing of landlords had come up in Bozeman. It was proposed by a conservative city commissioner and her interest at that time was to address the issue of absentee landlords for the protection of property owners in the neighborhood. It was a quality of life issue. There were many rentals in bad shape. They were not good neighbors. They could not find the landlords

in order to require them to do something about it. They did not act upon that issue at that time.

Terry Eastman, Bozeman. She was one of the tenants who had lived at the Gallatin Apartment complex. She said that she was told she would be given a three month notice to vacate. They were given a 42-day vacate notice three months later. It was difficult to find a place and it was cold outside. It was a hardship on most of them. They were thankful to the city for helping them out. They were opposed to the bill.

Jim Nugent, City Attorney, Missoula. He stood in opposition to the bill. In Missoula, the University does not have enough housing on campus for all the students. About 8000 students rent in Missoula. Rents are skyrocketing. Many houses are becoming investments rather than for families. The Human Rights Commission had told Missoula they can't limit the number of people living in a house. There are good landlords and, of course, not so good landlords. The City Council at the request of neighborhood associations felt they needed to address the issue. He felt this bill would hamper the city to do that. It would erode the power of local government. To what extent was uncertain. He felt the bill would not allow them to control weeds, snow, etc. He asked the legislature to require the University to provide housing for all their students.

Thomas Harnden, Bozeman. He asked the state to let local governments have the power to do what they feel is necessary.

Joel Walsh, Bozeman. He is a good citizen of Montana. He felt that his rights were very important. As a veteran, he believed that Montana should address the issue of homeless veterans. When there is a shortage of housing, it enhances the problems of the homeless. This bill will deny cities the local control they need. Bozeman realizes the disparity between individuals. People should not be forced out of their rented places.

Buck Bucholz, Pony. He is the commander of the VFW in Pony. He was concerned about the homeless vets. He was in agreement with the previous testimony.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Joe Masurek, City of Great Falls. The bill in its original form was of great concern to the City of Great Falls. Great Falls does have a yearly fee for fire inspection of rental properties. The main concern of Great Falls is an interest group was asking for statewide exemption from any interference by local government. He said the language in the bill would prohibit

cities from exercising any power that applies to or affects landlords when that power is intended to license or regulate their activities beyond what it provided in Title 70, Chapter 24 and 25. That statute governs the relationship between landlords and tenants. The next section (13) states any power that controls or regulates rent for a dwelling unit or alters the rights, remedies, or duties between a landlord and a tenant as provided in Title 70, Chapter 24 and 25. He felt that would prohibit cities from regulating animal control, garbage collection, fire inspections, etc. He did not want the House amendment taken off the bill.

David Ponder, Executive Director, Montana Public Interest Research Group (MontPIRG). For fifteen years MontPIRG has published a guide to tenant-landlord law and that guide has been distributed widely in the communities. They also provide a toll-free hotline for tenants and landlords alike where they can call and ask questions about the tenant-landlord statutes. They recognize that different communities have very different needs. Some communities have a great deal of affordable housing while other do not. Those needs call for different local responses. There does need to be some consistent statutes but the Tenant-Landlord Act and the Security Deposit Act that are referred to in this bill should serve as the floor and not the ceiling for those protections.

Questions from Committee Members and Responses:

SEN. DON HARGROVE had questions on licensing. What was the rationale behind the licenses, what services are provided, what is the cost and is there a statute that authorizes those licenses. **Jim Nugent** couldn't remember what statute authorized licensing. The idea was to be able to know who the owners were for different properties. They had trouble finding out that information. He felt that in Missoula there were homes that had been turned into rentals that were unsafe. The city would also be able to know how many rental units were in Missoula. Neighborhood associations had requested that some of these issues be addressed by the local government. The City Council had extended the licensing of rentals from tri-plexes and up and also down to the single units.

SEN. HARGROVE inquired if the license came with an inspection. **Mr. Nugent** replied that with zoning that is key. Most inspections are requested by the tenants. They hadn't intended to do on-site inspections and looked at licensing as nominal. With inspections, the fee would have to be increased.

SEN. HARGROVE asked if the Human Rights Commission was in conflict with the city zoning in terms of the number of people in one house. **Mr. Nugent** said that does hamper the city in regulating the number of people in one house. It also affects and conflicts with Montana building codes.

SEN. JIM ELLIOTT spoke of the occupancy factor, in connection with safety, as well as the zoning factor. If the city does not inspect these rental units, how do they know what all those factors are. **Mr. Nugent** said they try to ascertain where the units are through the zoning permits. Red flags can be raised in that manner. Complaints also raise red flags.

SEN. ELLIOTT then maintained that the basic data collected through this license is the owner and location of the rental unit and the zoning area involved. From that, the city can decide on the safety issues. **Mr. Nugent** offered that the city also tries to find out who manages the rental unit/units.

SEN. ELLIOTT stated that the safety and occupancy concerns are really ancillary to licensing. **Mr. Nugent** said they are ancillary in the fact the city does not inspect unless someone requests them to do so.

SEN. ELLIOTT further inquired that if there is a problem, what does the city do. **Mr. Nugent** offered that people are put on notice if they are violating the code. They are asked to correct the violation. They are not allowed to renew their license if they don't. If there is a turnover, the owner is asked not to rent it if the correction has not been made.

SEN. JOHN BOHLINGER wondered why the MT Landlords Assoc. would have objection to some of the language that is currently in present law. He referred to Mayor Kadis' letter which said, "it could be interpreted to include a prohibition against municipalities attempting to regulate such items as sidewalk repair and maintenance, sidewalk snow removal, weed problems, garbage problems, sanitary/sewer regulations, nuisance and noise violations, and zoning, such as off-street parking. **Rhonda Carpenter** replied that the intent of the bill was not to do any of those things. The intent was simply to disallow the cities from telling landlords how many people can live in one rental unit, which is in violation of federal fair housing laws. The Association did not want cities to regulate landlord-tenant law so that it would manipulate the market. It drives low income people to one area of town or out of town. The bill was drafted to exclude the above laws. Landlords are more than willing to follow city regulations concerning all of the above. She was

willing to have an amendment that would clarify the above concerns.

SEN. EMILY STONINGTON asked if the Association had agreed upon the House amendment as a compromise, why are they changing their mind now. **Ms. Carpenter** informed the committee that the Executive Board of the Association understood that by accepting the House amendment there would be no opposition to the bill. After the amendment was offered as a friendly amendment on the House floor, a representative from each local government said, that while the MT League of Cities/Towns is not opposing it, said their city would continue to oppose the bill. One by one, the Class A cities did that. When the Association heard what had happened, they felt betrayed and asked that the licensing issue be put back into the bill.

SEN. STONINGTON queried where the Association stood at this point. Would they accept the bill as it stands or would they rather have the bill tabled. **Ms. Carpenter** responded that they would accept the bill but would prefer not to have to pay a fee for a license. They viewed that solely as a tax because they received nothing for it.

SEN. STONINGTON inquired how this bill would affect the Missoula area. **REP. TOM FACEY, HD 67, MISSOULA** offered that the University students did present a problem for the local citizens on the rental scene.

SEN. DUANE GRIMES asked if the MT League of Cities/Towns would accept the amended bill. **Alec Hansen** did not know if the deal was still on the table. The committee would have to decide that.

CHAIRMAN DALE MAHLUM posed the question of whether the Missoula Realtors were in favor of the original bill or as it now stood. **Diane Beck** stated that her organization represents real estate licensees but they also have property managers. The Western MT Landlords Assoc., at the public hearing, supported the ordinance in Missoula. Her organization could support the bill as amended, but they would have preferred the original bill. The Missoula problem is a University problem. She did not want to jeopardize other cities because of Missoula.

SEN. GRIMES asked if the Mayor of Bozeman wanted the current bill as amended. **Marcia Youngman** responded that if the bill was narrowed down to prohibit rent control that would be fine with them. They didn't want to change the tenant-landlord law.

SEN. GRIMES further questioned that her problem seemed to be the displacement issue. **Ms. Youngman** disagreed with the language

limiting local governments to do anything beyond current state law that would interfere with the relationship between tenants and landlords. Her City Attorney said that would prohibit them, not only from a displacement ordinance, but some of the other things concerning affordable housing issues in Bozeman. They wanted the latitude to address those issues.

SEN. GRIMES offered that it was a volunteer displacement remedy that she had described earlier. **Ms. Youngman** replied that Bozeman had received self-government powers in July and they planned to adopt an ordinance. Until now, it was dependent on the compassion or lack thereof by the landlord.

Closing by Sponsor:

REP. WHITAKER closed. In Great Falls, snow must be removed in 24 hours. Sidewalks are repaired and the landlords are charged for that. Weeds must be removed. Lawns must be cut. These are regulations that pertain to everyone. This bill, even if amended, will not affect the cities' ability to enforce building codes or control zoning. It will not affect their ability to require a business license or to charge for safety inspections. If local governments are allowed to manipulate the landlord-tenant laws or rental prices, it will thrust rental problems outside city limits or into other nearby communities. Landlord-tenant law needs to be statewide. It needs to be fair to the small business people who invest in rental property. The laws should not be different from community to community. Licenses are not needed in order to know who the owner is. Property tax records are available to identify owners.

{Tape : 2; Side : B; Approx. Time Counter : 0}

HEARING ON HB 334

Sponsor: **REP. RALPH LENHART, HD 2, GLENDIVE**

Proponents: **Gloria Paladichuk, City of Glendive and Richland
Economic Development
Ron Alles, Chief Administrative Officer, Lewis &
Clark County
Alec Hansen, MT League of Cities/Towns
Joe Masurek, City of Great Falls
Mark Rehbein, Richland County Commissioner
Sherrel Rhys, Jefferson County
Jane Jelinski, MT Assoc. of Counties**

**MONTANA SENATE
2001 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE**

ROLL CALL

DATE 3-22-01

[illegible]

DATE

3-22-01

SENATE COMMITTEE ON

Local Government

BILLS BEING HEARD TODAY:

HB 382 HB 190

HB 334 HB 589

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	UPVOTE
THOMAS HARDEN	522-0548	SELF/MPA	382		✓
Kelvin Dorman	325-2729	City of Glendive	334	✓	
Mayor Bill Miller	397-4762	City of Glendive	334	✓	
David Fowler	243-2908	Mont PIRG	382		—
Gloria Paladecki	443-0726	City of Glendive Richland Econ. Devel.	334	✓	
Marna Youngman	587-5704	City of Bozeman - Mayor	382		✓
M.L. 'BUCK' BUCKOLF	587-5009	P.O. Box 3112 BOZEMAN MT 59712	382		✓
Annamarie Robinson	265-1359	North Central MT Reg. Aff. Club	190	✓	
Cheryl Fairbairn	586-1239	4116 W Olive, Bozeman, MT 59715	382		✓
Ashley Greene	582-2364	Self	382		✓
Mark Rehbein	774-3328	Richland County MREWS + Dry Cleaning	334	✓	
Steve Wade	443-6820		HB 109	✓	
Jim Edgcomb	444-5284	DEPT OF COMMERCE	HB 190		

Ronda Carpenter

590-5659 Mt Housing Providers

HB 382

✓

VISITOR REGISTER

Jim Nugent

523-4613 City of Missoula

HB 382

LOVE

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Jim Nugent

523-4613

City of Missoula

HB 589

✓

Joe M. A. Zwick

457-2000

City of

HB 334

✓

MARC NELSON

883-7326

Lake County

HB 382

✓

HB 334

✓

DATE 3-22-01SENATE COMMITTEE ON Local GovernmentBILLS BEING HEARD TODAY: HB 190 HB 382HB 334 HB 589**PLEASE PRINT**

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Rickey LINARCTA	452-8276	SELF & MONT. LANDLORD ASS.	HB 382	X	
Ron Alles	447-8311	Lewis & Clark CO	HB 334	✓	
VERN L. FISCHER	453-2918	SELF	HB 382	X	
GLADYS V. WILLIAMS	452-0287	SELF	HB 382	X	
Tara B. Eddy	222-6606	SELF	HB 382	X	
Larry Eddy	222-6606	SELF	HB 382	X	
Ken Manning	755-4926	MLA	HB 382	X	
Paul Thompson	752-4179	MONTANA LANDLORDS ASSOC.	HB 382	X	
from Mr. Isaac	683-4013	" " "	HB 382	X	
Harriet Chambers	683-2727	" " "	HB 382	X	
Diane Berry	543-7653	Missoula County REALTORS	"	X	
Ed M. Walsh	586-5656	BOZEMAN, City	"		X
Todd Eastman	522-8815	Bozeman, Mt	HB 382		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT**

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 27, 2001 at
3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 585, 3/13/2001

Executive Action: HB 345 BCAA
HB 382 BCAA
HB 409 BCAA
HB 589 BCAA

HB 585 TABLED
HB 30 RE-REFERRED

{Tape : 1; Side : A; Approx. Time Counter : 0}

Gordon Morris, MACO, stated that to take care of **SEN. TOOLE'S** problem, just say the county attorney's salary will start at \$50,000 per year. Leave that figure in there and do not strike it out. **REP. MANGAN'S** amendments were to address the concerns of the Dept. of Justice. If you address those concerns, you ignore **REP. MANGAN'S** amendments on page 3, dealing with the county attorneys and on page 5 where language was being inserted and taken out.

CHAIRMAN MAHLUM said they would put HB 345 on hold and go on to the next bill. The committee returned to HB 345 at the end of Tape 2, Side A and continued on to Tape 2, Side B.

EXECUTIVE ACTION ON HB 382

Motion: **SEN. STONINGTON** moved that HB 382 BE AMENDED
EXHIBIT(10s69a08) HB038204.alk.

Discussion:

SEN. STONINGTON explained her amendment. She addressed the question of what role should local government have in what goes on between a landlord and tenant. In Nov. 2000, Bozeman residents voted self-governing powers for the city commission. Following that, they had been dealing with a tight housing market in which landlords are closing their apartments and evicting tenants with no notice. They had one situation in which the landlord dealt well with the tenants and two situations in which the landlords dealt badly with the tenants. The City Council had tried to step in and find some middle ground. If the bill is passed without this amendment or a similar amendment, there will be no ability for local government to participate in this situation.

SEN. KEN MILLER felt the amendment was dangerous. In tight rental markets, all this would do would be to make it worse. Landlords have to give at least a 30 day notice. If by the words "elimination of rental units," a city could pass an ordinance that would make the landlord find places for his renters if he demolished his building, he was opposed. Renters are already protected under the current landlord laws. Why would cities need an exemption if a landlord wanted to eliminate his own building.

SEN. STONINGTON conceded that **SEN. MILLER** may know the rental laws better than she, but she was going on the testimony of city council people and the mayor. This amendment was drafted by the

Bozeman City Attorney. They are just trying to help these people who are being evicted without, as she understood it, adequate notice and without adequate provisions and no where to go. It is an emergency kind of provision. The Mayor of Bozeman has really worked on this issue.

SEN. CHRIS CHRISTIAENS asked why would that situation not be covered under MT Landlord-Tenant Act right now. **Rhonda Carpenter, MT Housing Providers** stated that the MT Landlord-Tenant Act does cover eviction proceedings and the notification periods that have to go to the tenant.

SEN. CHRISTIAENS then asked why the situation in Bozeman had not been covered under that Act. **SEN. STONINGTON** felt at a disadvantage because this was not her issue. She was doing this on behalf of her city council who felt that this had been a conflict that was not resolved in the Landlord-Tenant Act.

SEN. STONINGTON asked **Alec Hansen** if he had any information about this situation. She informed the group that Mayor Marcia Youngman testified that the city is trying to help this tight housing market by providing some protection for tenants who are being evicted. The mayor did not want to be prohibited from passing a displacement ordinance. She wanted to know if this were truly covered under the MT Landlord-Tenant Act.

Alec Hansen said that he had just talked to the Bozeman City Attorney and he had suggested a similar amendment. He had researched this carefully at the request of the mayor. The amendment that **SEN. STONINGTON** is proposing was necessary to assure that they can provide tenant protection with a displacement ordinance.

SEN. STONINGTON offered a second amendment **EXHIBIT(1os69a09) HB038205.ALK**. She said the two amendments are basically the same but with different wording.

SEN. TOOLE made the comment that if the tenant has a 30 day notice, the city does have a concern when they are in a tight rental market and someone in town shuts down a building and dumps 40 families into the rental market. That is what the city is concerned about not being able to address.

SEN. MILLER understood tight rental markets, but this amendment makes it worse. If a landlord does not have the right to close his rental units down, that landlord will not even buy a large rental unit or rent to low income people. In reading the title of the bill, these amendments go in the opposite direction of what the title states.

SEN. ELLIOTT thought the bill was brought forward because some cities wanted to license rental units. The MT Landlords Association did not want them to be able to do that. That language is now struck. Rent control is the prohibitive issue now.

Motion/Vote: **SEN. ELLIOTT** moved that **HB 382 BE TABLED**. Motion failed 3-7 with Bohlinger, Christiaens, Glaser, Grimes, Hargrove, Mahlum, and Miller voting no. A roll call vote was taken.

Senator Cobb was not present to vote.

SEN. STONINGTON said that an ordinance providing protection may be too rigorous and offered the language of "different or additional notices prior to displacement."

Motion: **SEN. STONINGTON** moved that **SB 382 BE AMENDED (EXHIBIT 9)** **HB038205.alk**.

Discussion:

SEN. CHRISTIAENS asked for the intent of the motion. If he were to plan to remodel a duplex, would he need to do something different than the current law which is to give a 30 day notice. Last weekend, when he went home, he found two of his tenants had moved out over the week.

SEN. STONINGTON replied that the amendment does not say he would have to do something different. It just allows local government to have the ability to work in this area. If they passed an ordinance, he would have the ability to have some input. What was being stated here was what could local government do if a whole apartment building were to be closed down. A duplex would not affect that many people and should not cause a hardship for them.

Vote: Motion to **AMEND HB 382** failed 2-8 with Bohlinger, Christiaens, Elliott, Glaser, Grimes, Hargrove, Mahlum, and Miller voting no. A roll call vote was taken.

Motion/Vote: **SEN. MILLER** moved that **HB 382 BE AMENDED EXHIBIT(1069a10)** **HB038203.alk**.

Discussion:

SEN. MILLER explained the amendments. There had been some concerns about licensing. Number 1 amendment brings the bill back to its original form and would not allow local government to license landlords or to regulate their activities with regard to tenants beyond what is....." Number 2 allows local government to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

Motion carried 9-1 with Stonington voting no.

Motion/Vote: **SEN. CHRISTIAENS** moved that **HB 382 BE CONCURRED IN AS AMENDED**. Motion carried 8-2 with Stonington and Toole voting no. Senator Miller will carry the bill.

Senator Cobb was not present for voting.

EXECUTIVE ACTION ON HB 30

SEN. CHRIS CHRISTIAENS felt that this bill should be referred to Senate Judiciary because juvenile custody issues in the Corrections Department were being discussed.

Motion/Vote: **SEN. CHRISTIAENS** moved **HB 30 BE REFERRED TO SENATE JUDICIARY COMMITTEE**. Motion carried unanimously. Chairman Dale Mahlum will ask for the referral on the Senate floor.

EXECUTIVE ACTION ON HB 345 CONTINUED

SEN. DON HARGROVE said that there had been a consensus reached. He explained that the two amendments could be merged. There would be two parts taken out of **REP. MANGAN'S** amendment and one part taken out of **SEN. HARGROVE'S** amendment.

Gordon Morris, MACO, further explained the two amendment merger. He addressed **REP. MANGAN'S** amendment **HB034501.alk**. This came from the Dept. of Justice. The Dept's intent is accomplished in No. 1 and No. 6. As a result, amendment Nos. 2, 3, 4, 5 can be removed. He then addressed **SEN. HARGROVE'S** amendment **HB034502.agp**. The dollar amount of \$50,000 would be re-inserted and the word "base" substituted.

DATE 3-17-01 BILL NO. HB 382 NUMBER #1
MOTION: Mr. Elliott To Table - Failed

3 - 7

DATE 3-27-01 BILL NO. HB 382 NUMBER # 1

[illegible]

Amendments to House Bill No. 382
3rd Reading Copy

3
Senate Local Govt. Comm.
Exhibit No. 8
Date 3-27-01
Bill No. HB 382

Requested by Senator Emily Stonington

For the Senate Local Government Committee

Prepared by Leanne Kurtz
March 27, 2001 (12:28PM)

1. Page 2, line 16.

Following: "25."

Insert: "This subsection does not apply to the power to enact and enforce an ordinance providing for the protection of tenants who are displaced as a result of a landlord's elimination of rental units."

- END -

Amendments to House Bill No. 382
3rd Reading Copy

Senate Local Govt. Comm.
Exhibit No. 9
Date 3-27-01
Bill No. HB 382

Requested by Senator Emily Stonington

For the Senate Local Government Committee

Prepared by Leanne Kurtz
March 27, 2001 (12:28PM)

1. Page 2, line 16.

Following: "25."

Insert: "This subsection does not apply to the power to require
different or additional notices prior to displacement of
tenants."

- END -

Amendments to House Bill No. 382
3rd Reading Copy

Requested by Senator Dale Mahlum

For the Senate Local Government Committee

Prepared by Leanne Kurtz
March 27, 2001 (9:35AM)

1. Page 2, line 14 through line 15.

Strike: "CONTROLS" on line 14 through "AS" on line 15

Insert: "applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is"

2. Page 2, line 16.

Following: "25."

Insert: "This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction."

- END -



SENATE STANDING COMMITTEE REPORT

March 28, 2001

Page 1 of 1

Mr. President:

We, your committee on Local Government recommend that House Bill 382 (third reading copy - blue) be concurred in as amended.

Signed: *Dale Mahlum*
Senator Dale Mahlum, Chair

To be carried by Senator Ken Miller

And, that such amendments read:

1. Page 2, line 14 through line 15.

Strike: "CONTROLS" on line 14 through "AS" on line 15

Insert: "applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is"

2. Page 2, line 16.

Following: "25."

Insert: "This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction."

- END -

Committee Vote:

Yes 8, No 2.

702011SC.srf

SN



AN ACT PROHIBITING SELF-GOVERNING LOCAL GOVERNMENT UNITS FROM EXERCISING CERTAIN POWERS RELATED TO LANDLORDS AND TENANTS; AND AMENDING SECTION 7-1-111, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of environmental compatibility and public need;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife); and

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction."

- END -